IN THE HIGH COURT OF JUDICATURE
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE J.CHELAMESWAR
and
THE HON'BLE MR JUSTICE D.APPA RAO

WRIT PETITION NO :23252 of 2006

Dated: 4th December 2006.

Between:
Chava Venkateswarlu, s/o Laxminarayana, Prakasam District.

..... PETITIONER

AND

The Deputy Commercial Tax Officer, Chirala, Prakasam District and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE J.CHELAMESWAR
AND
THE HON'BLE SRI JUSTICE D.APPA RAO

W.P.NO.23252 OF 2006

ORAL ORDER:
(Per the Hon'ble Sri Justice J.Chelameswar)

This writ petition is filed with the prayer as follows:

> " For the reasons stated in the accompanying affidavit, it is prayed that this Hon'ble Court may be pleased to issue an appropriate writ, direction more particularly one in the nature of Writ of Mandamus declaring the action of the 1st respondent in issuing the attachment notice in form-V dt.09-10-2006 demanding to pay the arrears of Rs.1,52,597/- relating to the 2nd respondent for the assessment year 2000-01 and 2001-02 as illegal, arbitrary, contrary to the provisions of the APGST Act, 1957 and also contrary to the judgment of this Hon'ble Court passed in W.P.No.21526/'96 and batch dt.27-01-2006 reported in 42 APSTJ Page No.77, and setaside the same and consequently direct the 1st respondent not to take any coercive steps against petitioner and pass such order or orders as are deemed fit and proper in the facts and circumstances of the case."

The petitioner, it appears, is one of the guarantors, as required under Rule 28(8) of the Rules framed under the A.P.G.S.T. Act, for one M/s Vijayalaxmi Traders (2nd respondent herein). Such a guarantee was given at the time of the registration of the 2nd respondent as a dealer on the rolls of the Commercial Tax Department, incompliance of the abovementioned Rule. It further

appears that subsequently, the 2nd respondent fell in arrears of tax due under the A.P.G.S.T. Act, for the assessment years 2000-01 and 2001-02. The 1st respondent issued a notice dated 09-10-2006, calling upon the petitioner to pay the arrears of tax of the 2nd respondent and also issued an attachment notice in Form-5 under the A.P.G.S.T. Act, attaching certain properties of the petitioner. Hence, the present writ petition.

Earlier, when the matter came up for admission on 10-11-2006, the learned Government Pleader for Commercial Tax, sought an adjournment for getting instructions in the matter and accordingly, the matter is adjourned. Today, when the matter is taken up, the learned Government Pleader submits, on instructions, that the petitioner executed a letter of guarantee at the time of registration of the 2nd respondent-firm in the year 1997. The arrears of tax of the 2nd respondent, which are sought to recover by the impugned action, in the present writ petition, do pertain to the years 2000-01 and 2001-02, as asserted by the petitioner.

In view of the abovementioned undisputed facts, the issue is no more *res integra* following of a decision of this Court in NEW KAMAL BAR & CARE, HYDERAAD v. STATE OF ANDHRA PRADESH & OTHERS[1], saying that the guarantee is limited only for a period of one year

from the date of execution of such guarantee and for the arrears beyond the said period, the guarantee cannot be in force against the guarantor.

In the circumstances, the writ petition is allowed as prayed at the stage of admission.

J.Chelameswar, J

D.Appa Rao, J

4th December 2006
mrk

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[1] 42 APSTJ 77